

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION**

Trustgard Insurance Company,)	
)	
Plaintiff,)	Civil Action No.: 3:17-cv-00807-JMC
)	
v.)	ORDER ON REMAND
)	
Michael Brown, individually and d/b/a)	
Triple S Transport, and Sharon Collins,)	
Dorothy L. Jackson, individually and as)	
Executor of the Estate of Alfred Jackson,)	
Sr., John A. Godfrey, and Mattie E. Render,)	
)	
Defendants.)	
)	

Plaintiff Trustgard Insurance Company filed this declaratory judgment action against Defendants Michael Brown, individually and doing business as Triple S Transport (together “Brown”), and Sharon Collins, Dorothy L. Jackson, individually and as Executor of the Estate of Alfred Jackson, Sr., John A. Godfrey, and Mattie E. Render (collectively “Defendants”) seeking a declaration by the court that a commercial automobile insurance policy (the “Policy”) issued by Plaintiff to Brown and bearing policy number XA 2102843 00 does not provide coverage or otherwise create a duty to defend or indemnify Brown with regard to the ongoing lawsuit styled *Sharon Collins v. Michael McWilliams, et al.*, Case No. 2016-CP-03-00124 (Allendale Cty. Ct. Com. Pl.) (the “Underlying Action”). (ECF No. 1 at 3 ¶ 20–4 ¶ 25.) In the alternative, Plaintiff sought a declaration that the MCS-90 Endorsement in the Policy does not provide coverage to Brown or otherwise create a duty to defend or indemnify him as a result of the Underlying Action. (*Id.* at 4 ¶ 26–6 ¶ 36.) On December 17, 2017, the court entered an Order (the “December Order”) granting Plaintiff’s Motion for Summary Judgment (ECF No. 31) and finding that Plaintiff did not have a duty to Brown. (ECF No. 47 at 9–10.)

This matter is before the court on remand “to dismiss the action without prejudice” as per instructions from the United States Court of Appeals for the Fourth Circuit. (*See* ECF No. 57 at 16.) In reviewing the matter on appeal, the Fourth Circuit found error in the December Order opinion because the court “reached the merits despite a thin and ambiguous record” and “created both a substantial question about whether Article III jurisdiction existed and a serious potential to interfere with ongoing state proceedings.” (*Id.*) Based on this finding, the Fourth Circuit vacated the December Order and remanded the matter for the court to dismiss it. (*Id.*; *see also* ECF No. 58-1.)

Therefore, in accordance with the Fourth Circuit’s Mandate and Judgment (ECF Nos. 58, 58-1), the court hereby **DISMISSES** the Complaint in this matter without prejudice.

IT IS SO ORDERED.

A handwritten signature in black ink that reads "J. Michelle Childs". The signature is written in a cursive, flowing style.

United States District Judge

June 1, 2020
Columbia, South Carolina